p18-2(2)/14-3(400916)P DEPARTMENT OF THE NAVY OFFICE OF THE JUDGE ADVOCATE GENERAL WASHINGTON, D. C. Apr. 11, 1941 Sirs: By letter of March 3, 1941 (No. P18-2(2)/ L4-3(ACO916)), the Secretary of the Navy authorized certain changes in Contracts NOd-1430, NOd-1432, NOd-1433, NOd-1497, NOd-1500, NOd-1503 and Nod-1642. On page two of the above referenced letter, in the change under Article 17(d) of the General Provisions, reference was inadvertently made to claims for reimbursement under paragraphs "(a) or (b)" of that Article when paragraphs "(b) or (c)" were intended. It is requested that the change letter be corrected by substituting "(b) or (c)" for "(a) or (b)" under Article 17(d). By direction of the Secretary of the Navy. Respectfully, T. L. GATCH Acting Judge Advocate General of the Navy Federal Shipbuilding and Dry Dock Company, Kearny, New Jersey. EuShips BuS&A CompBd (3)
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March 3, 1941

Sirs

Articles 17(b), (c) and (d) of the General Provisions forming part of Contracts NOd-1430, NOd-1432, NOd 1433, NOd-1497, NOd-1500, NOd-1503 and NOd-1642, provide for reimbursement of the Contractor by the Mavy Department of the additional cost incurred in connection with overtime and shift work, where such overtime or shift work has been approved by the Navy Department.

Department.

In crier to extend these previsions to subcontracts, the Secretary of the Navy hereby authorizes the following changes in the General Provisions of each of the abovementioned contracts:

## Article 17(b):

line 1 - after the word "contractor", insert the words "or any subcontractor under this contract".

Line 5 - after the word "contractor", insert the words "or such subcontractor".

Line 7 - after the word "contractor", insert the words "or such subcontractor".

#### Article 17(c):

line 1 - after the word "contractor", insert the words "or any subcontractor under this contract".

line 4 - after the word "contractor", insert the words "cr such subcontractor".

line 6 - after the word "contractor", insert the words "or such subcontractor".

# Article [712]:

Line 1 - after the word "contractor", insert the words and punctuation", or any subcentractor under this/contract on whose healf the contractor claims reimbursement under paragraphs (a) or (b)

For the sake of clarity, the Secretary of the Navy hereby further modifies the General Provisions forming part of Contracts NOd-1430. NOd-1432, NOd-1433, NOd-1497, NOd-1500 and

#### Article 23(d):

Line 9 - after "vessel/vessels", insert "hereby agrees,"

Article 12(c) of Contracts Nod-1430, Nod-1433, Nod-1497. Noi-1500, Nod-1503 and Nod-1642, authorizes the Contractor, with the written approval of the Secretary of the Navy or the Chief of the Bureau of Ships as his duly authorized representative, to enter into subcontracts on a cost-plus-a-fixed-fee basis, on a price-adjustment basis, or on such other basis as may be approved. In order to permit the Contractor to modify existing subcontracts under this provision, the Secretary of the Navy hereby modifies each of these contracts as follows:

### Article 12(c):

Line 5 - Change the period following the word "approved" to a semicolon and add the following:

"similarly, if the contractor shall have obtained in advance such written approval, he may, by agreement with the subcontractor, change any subcontract to a cost-plus-a-fixed-fee casis, a prize-adjustment basis, or such other basis as may be approved "

By letter of February 19, 1941, form of Contract NOd-1732 for the construction of four Destroyers Nos. DD645 to 643, inclusive, was forwarded to the Contractor for execution. If this contract has not been forwarded to the Navy P18-2(2)/L4-3(200916) P

pepartment, it is requested that the above changes, except for that applying to Article 23(d) of the General Provisions, which has already been made, be inserted in all copies of form of Contract NOd-1732 and the General Provisions forming part thereof, and that appropriate entries covering such insertions be added under Article 14 of the contract and Article 25 of the General Provisions.

It is requested that receipt of this letter be acknowledged.

Respectfully,

James Forrestal

Acting Secretary of the Navy

Federal Shipbuilding and Dry Dock Company, Kearny, New Jersey.

BuShips CompEd (2) SupShip, Kearny G.A.O. (Audit Div) CC: BuShips BuS&A

other than subcontractors' cancellation charges, which the contractor shall have incurred on other than subcontractors' cancellation charges, which the contractor shall have incurred on account of such cancellation, including reasonable compensation to it for the use of property of the contractor occupied or required by the unfinished vessel/vessels until final disposition thereof, as determined by the aforesaid Board; (3) the centractor shall be entitled to the costs as determined by the aforesaid Board with profit at \$.7 percent of the costs on items (1), (2), (3), and (4), and the contractor, furthermore, will be reimbursed, without profit to him, for any additional payments including subcontractors' cancellation charges made by the contractor with the approval of the Compensation Board by reason of the aforesaid cancellation of this contract.

(b) The smount which the Department shall pay to the contractor pursuant to the provisions of the foregoing paragraph (a) will be ascertained, estimated, and determined by the Compensation Board as soon as practicable after such cancellation is ordered. The amount so determined, when approved by the Secretary of the Navy (after a hearing, if desired by the contractor), shall be the amount that shall be paid to the contractor in full settlement of rights under this contract: Provided, That the Secretary of the Navy may, in advance of final contractor), shall be the amount that shall be paid to the contractor in full settlement of its rights under this contract: Provided, That the Secretary of the Navy may, in advance of final payment, make partial payments as amounts shall be found by the Compensation Board to be due to the contractor. As a condition precedent to final payment the contractor shall execute the same of the contractor in full settlement of its rights under this contract. due to the contractor. As a condition precedent to final payment the contractor shall execute a release, in such form and containing such terms and conditions as shall be prescribed by the Secretary of the Navy, of all claims against the United States arising under or by virtue of this Secretary of the Navy, of an claims against the United States arising under or by virtue of this contract or the cancellation hereof.

12. The contractor will notify the Department not less than 30 days beforehand of the date Launching. of launching each vessel so that a sponsor for the vessel man ou days beforehand of the date Launching each vessel so that a sponsor for the vessel may be selected.

13. The contractor shall notify the Department in writing at least 2 weeks in advance of Trials. 13. The contractor starting trials and the approximate date for starting trials shall be furnished 14. Each vessel shall be sufficiently strong to carry safely the personnel and the armament, Strength. 14. Each vesset suan be summently strong to carry safety the personnel and the armament, armor, ammunition (including torpedoes and their appendages), equipment, fuel oils, stores, and machinery prescribed by the Department and indicated in the plans and specifications; and the vessel shall be accepted only on condition that she shall, after the trials prescribed in the contract, he found to be strong and well built as defined therein and in strict conformity 15. The contractor shall notify the Department in writing at least 2 weeks in advance of the Delivery. After one-half of the contract time has expired the contractor that Department of the estimated date of completion. the Department of the estimated date of completion.

16. The contractor shall be informed of all defects and deficiencies developing during the Contractor shall be informed and for which it is held responsible, and, wherever practicable, the contractor shall be given an opportunity to inspect the defects and deficiencies for which the contractor is responsible before they are corrected; and the decision of the Secretary of the Navy or the Chief of the Burcau of Ships, as his duly authorized representative, as to the appropriative of the contractor for such defects and deficiencies shall be final and binding on the of the ranks of the Contractor for such defects and deficiencies shall be final and binding on the CONTRACT! responsibility of the contract. The actual cost of correcting all defects and deficiencies for which the contractor is held responsible shall be deducted from the payment to be made in final settlement nethanan erana SECTION OF THE contractor is near responsible same to deducted from the payment to be made in final settlement under this contract, or by refund if the amount reserved is exceeded by the amount to be deducted: Provided, That in order to expedite such final settlement, if the work of correcting any of the reported defects and deficiencies shall not have been undertaken when final settlement is otherwise due, the cost of correcting such defects and deficiencies may be determined as a change is provided in this contract, and the amount so determined deducted in lieu of the actual cost of such items in final settlement. 17. (a) During the continuance of the national emergency declared by the President of the Elight hour law. United States on September 8, 1939, to exist, but not later than June 30, 1942, unless otherwise provided by law, the provisions of the law prohibiting more than eight (8) hours' labor in any one day of persons engaged upon work covered by this contract shall, in accordance with the Act approved June 28, 1940 (Public, No. 671, 76th Cong., 3d sess.), be suspended.

The provisions of Section 363 of the "Second Supplemental National Defense Appropriation Act, 1941," approved September 9, 1940 (Public, No. 781, 76th Cong., 3d sees.), are applicable to this contract. (b) If the contractor, in the interest of National Defense, employs, with the approval of overtime. the Department, any person or persons upon the work covered by this contract in excess of eight (8) hours in any one day or of forty (40) hours in any one week, the Department will reimburse the contractor as determined by the Compensation Board for the net excess of the wage rates paid by the contractor over and above the regular wage rates paid by it for such overtime work, and the resultant increased State and Federal Social Security taxes actually paid by the contractor, to the sum of all of which shall be udded 8.7 percent as profit thereon. (c) If the contractor, in the interest of National Defense, employs, with the approval of the Shift work. Department, any person or persons on work other than day work, the Department will reimburse the contractor as determined by the Compensation Board for the net excess, if any, of the wage rates paid by the contractor over and above the regular day wage rates paid by it for the same type of work, and the resultant increased State and Federal Social Scourity taxes actually paid by the contractor, to the sum of all of which shall be added 8.7 percent thereof, as profit.

(d) The contractor shall maintain such records as shall be necessary, in order that it may definitely show the amount of money actually paid by it for such overtime work and/or shift The contractor shall not employ any person undergoing sentence of imprisonment at Convict labor. hard labor. (f) The contractor will report monthly, and will by agreement require its subcontractors to the report in like manner, within 5 days after the close of each calendar month, on forms to be firmished by the United States Department of Labor, the number of persons on their respective pay rolls, the aggregate amount of such pay rolls, the man-hours worked, and the total expenditures for materials. The contractor shall furnish to the Department of Labor the names and endowed of all subcontractors on the work at the earliest date practicable: Provided, however, that the requirements of this paragraph shall be applicable only for work at the site of the construction project. tenstruction project. (9) Pursuant to the provisions of the Act approved June 13, 1934 (40 U.S. C. 270 (b) and Affiderit concerning rates of pay for labor, the Secretary of the Treasury and the Secretary of the labor. Interior have jointly promulgated the following regulations (amended March 29, 1937):

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SECTION 1. Sail Act reads as follows:

"To effective the purpose of certain relative secretaries throunder, and its state purpose."

"Be it enacted by the Senate and House of Representatives of the Unite. States of America in Contross essembled, that whoever shall induce any person employed in the constructed, production, or completion of any public building guidic work, or building or work financed in whole or in that by toans or grants from the control of the public building guidic work, or building or work financed in whole or in that by toans or grants from the control of the state of procuring discussed in the scentified under the control of the state that have the sent that the state of the s

STATE OF \_\_\_\_\_\_, ss:

(h) This contract is subject to the provisions of the Act of June 25, 1936 (40 U.S. C. 200), entitled "An Act to-provide more adequate protection to workmen and laborers on projects, buildings, constructions, improvements, and property wherever stuated, belonging to the United States of America, by granting to the several States jurisdiction and authority to apply their State workmen's compensation laws on all property and premises belonging to the United States of America."

(i) The construction of the vessel/vessels shall be in accordance with the provisions of the Act approved June 30, 1936 (41 U. S. C. 35-45), and the regulations issued by the Secretary of Act approved June 30, 1936 (41 U. S. C. 35-45), and the regulations issued by the Secretary of Labor in pursuance thereof, to the extent that said provisions and regulations and the representations and stipulations herein set forth are applicable to this contract, unless such course, in the judgment of the President of the United States, shall not be in the interest of the National Defense (Act approved May 17, 1938) (34 U. S. C. 498), and unless the President of the United States shall, in accordance with the Act approved June 28, 1940 (Public No. 671-76th Cong.), suspend any or all of the representations and stipulations of Section 1 of the aforesaid Act.

(j) It is agreed and understood that this contract will be performed subject to the representations and stipulations of the Act approved June 30, 1936 (41 U. S. C. 35-45) and regulations issued by the Secretary of Labor pursuant thereto as follows:

tions issued by the Secretary of Labor pursuant thereto as follows:

(1) The contractor is the manufacturer of or a regular dealer in the materials, supplies,

articles, or equipment to be manufactured or used in the performance of this contract

(2) All persons employed by the contractor in the manufacture of furnishing of the materiale, supplies, articles, or equipment used in the performance of this contract will be paid, without subsequent deduction or rebate on any account, not less than the minimum wages as determined by the Secretary of Labor to be the prevailing minimum wages for persons emas determined by the Secretary of Labor to be the prevaning minimum wages for persons employed on similar work or in the particular or similar industries or groups of industries currently operating in the locality in which the materials, supplies, articles, or component are to be manufactured or furnished under this contract: Provided, however, That this stipulation with respect to minimum wages shall apply only to purchases or contracts relating to such industries as have been the subject matter of a determination by the Secretary of Labor.

(3) No person employed by the contractor in the manufacture or farnishing of the materials, supplies, articles, or equipment used in the performance of this contract shall be permitted to work in excess of 8 hours in any one day or in excess of 40 hours in any one week, unless such per-

work in excess of 8 hours in any one day or in excess of 40 hours in any one week, unless such person is paid such applicable overtime rate as has been set by the Secretary of Labor.

(4) No male person under 16 years of age and no female person under 18 years of age and no convict labor will be employed by the contractor in the manufacture or production or furnishing of any of the materials, supplies, articles, or equipment included it this contract.

(5) No part of this contract will be performed nor will any of the materials, supplies, articles, articles, are applied to the materials. or equipment to be manufactured or furnished under this contract be manufactured or fubricated or equipment to be manufactured or furnished under this contract be manufactured or fabricated in any plants, factories, buildings, or surroundings or under working conditions which are unsanitary or hazardous or dangerous to the health and safety of employees engaged in the performance of this contract. Compliance with the safety, sanitary, and factory inspection laws of the State in which the work or part thereof is to be performed shall be prima-facile evidence of compliance with this subsection.

with this subsection.

Any breach or violation of any of the foregoing representations and stipulations shall render
the party responsible therefor liable to the United States of America in Reguldated damages, in
addition to damages for any other breach of this contract, in the sum of \$20 per day for each male
person under 16 years of age or each female person under 18 years of \$2, or each convict laborer
knowingly employed in the performance of this contract, and a sum equal to the amount of any

Workmen's insurance

Walsh-liealer Act.

Representations and stipulations pursuant to the Walsh-Healey Act.

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ed applicable to office or applicable to office or the contractor, subject the following record application of authorized to Name, address, sex, Date of birth of each pai leach pay period. such such employee w Compliance with the amplyees in the plant and the day.
That where no separ Person it shall be presu The initial supplies, articles in the performance of lan been mined or produc and peer miner or processing of supplies 1 States; the foregoing pl the or kind to be used or d as are not mined, produced and reasonably av rikies, materials, or sur

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This contract shall not, in other person or persons. The contractor Warrant upon any agreement ed his warranty shall gi rtion, to deduct from the se brokerage, or conting ontractors upon contrac as selling agencies mainta and the construed to exi

Except as otherwise spe seeming any question unde discrepancy appears be Enlerred at once to the Se interred at once to the self-barries hereto. No cint self-barries to the Socretary of the self-barries to the self-bar the guarantee period of the a) As payments are made and become the acid materials on the citying the contract.

dealectors of the later is also in a contrary to the of wayes due to any employee entarged in the performance of the later in the later of later of the later of later of the later of the later of the later of the later of later of the later of later San Tana etary of Labor.

The foregoing stipulations shall be desired inoperative if this contract is for a definite amount not in excess of \$10,000. Unless and until otherwise set by the Secretary of Labor, the rate of pay for any overtime performed under the conditions of stipulation (3) shall be one and one-half times the basic hourly performed under the conditions of structures (o) shall be one and one-half times the basic hourly rate or piece rate received by the employee. Overtime in any one week or part thereof an employee is engaged in work covered by the contract stipulations, shall be computed after 8 hours in any one day or after 40 hours in any one week during which no single daily total of hours in any one day or after 40 hours in any one week during which no single daily total of employment may be in excess of S hours without payment of the overtime rate.

The stipulations affecting employees shall be deemed applicable only to employees engaged is or connected with the manufacture, fabrication, assembling, handling, supervision, or shipment of materials, supplies, articles, or equipment required under this contract and shall not be located applicable to office or custodial employees. dice per mile chair. der med emilia E313 870 (4) po deemed approach to the representations and stipulations embodied herein, shall maintain the following records of employment which shall be available for the inspection and of the second exists transcription of authorized representatives of the Secretary of Labor: (a) Name, address, sex, and occupation of each employee covered by the contract stipu-THE RESIDENCE and speed by the lations.

(b) Date of birth of each such employee under 21 years of age.

(c) Wage and hour records for each such employee including the rate of wages and the amount paid each pay period, the hours worked each day and each week, and the period during which each such employee was engaged on a Government contract with the number of such employee with this subsection shall be deemed complete if were and hour results. 2116 SE SPIELLE contract. Compliance with this subsection shall be deemed complete if wage and hour records for all employees in the plant are maintained during the period between the award of any Gov-17 m for an employees in the plane are maintained during the period between the award of any Government contract and the date of delivery of the materials, supplies, articles, or equipment: Provided, That where no separate records for employees engaged on Government contracts are maintained, it shall be presumed until affirmative proof is present to the contrary that all employees in the plant, from the date of award of any such contract until the date of delivery dida a a l of the materials, supplies, articles, or equipment, were engaged on such Government contract. THE WEST OF THE PARTY. 18. In the performance of the work covered by this contract the contractor, subcontractors, material men, or suppliers shall use only such unmanufactured articles, materials, and suppliers that the training States and other materials, and suppliers that the training States and other materials are training states. THE HARD IN COM. T THE CHAPTE as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from ciret, tales mi mai materials, and supplies as have been manufactured in the cinted states substantially an iron articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States; the foregoing provision shall not apply to such articles, materials, or supplies of the class or kind to be used or such articles, materials, or supplies from which they are manufactured in the class or kind to be used or such articles, materials, or supplies from which they are manufactured in the class of kind to be used or such articles, materials, or supplies from which they are manufactured in the class of kind to be used or such articles, materials, or supplies from which they are manufactured in the class of kind to be used or such articles, materials, or supplies from which they are manufactured in the class of kind to be used or such articles. des the Present die 10 (Police Se CT, 26 ). tica la de de e in this creation factured, as are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, or to such articles, materials, or supplies as may be excepted by the head of the Department under the proviso of Title III, section 3, of the act of Congress approved March 3, 1933 (41 U.S. C. min i de mini p 10(3)).

19. This contract shall not, nor shall any interest therein, be transferred by the contractor Not transferable. to any other person or persons. 20. The contractor warrants that he has not employed any person to solicit or secure this contingent feet contingent for a commission, percentage, brokerage, or contingent feet. The first special state of the same of the Breach of this warranty shall give the Department the right to terminate this contract, or, in its discretion, to deduct from the contract price or consideration the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to commissions payable by contractors upon contracts or sales secured or made through bons fide established commercial or selling agencies maintained by the contractor for the purpose of securing business.

21. No Member of or Delegate to Congress, or Resident Commissioner, shall be admitted benefit. distant. Conta Ba and restrict the la produ to any share or part of this contract or to any berefit that may arise thereiron, but this provi-THE STREET STREET son shall not be construed to extend to this contract if made with a corporation for its general Derive Take 1 Part of 22. Except as otherwise specifically provided in this contract, if any doubts or disputes has concerning any question under this contract or as to anything in the plans or specifications, or if any discrepancy appears between said plans or specifications and this contract, the matter shall be referred at once to the Secretary of the Navy for determination; and his decision in the premises (made after a hearing, if desired by the contractor) shall be conclusive and binding upon the parties hereto. No chaim arising under this contract will be considered unless submitted in writing to the Secretary of the Navy within six (6) months from the date of the expiration of the granted period of the vessel with respect to which the claim arcset.

23. (a) As payments are made under this contract and for changes or extras, the parts of the rescally saids and materials on account of which such payments that have been made shall be made after the sole property of the united States; but this provision shall not be considered and work upon which granted in the resonability for the care and protects n of reaterals and work upon which payments have been made or the restoration of any damaged work or as a waiter of the right of the Department to require fulfillment of all the terms of this contract. As tarmeers are more than the restoration of the terms of this contract. 22. Except as otherwise specifically provided in this contract, if any douots or disputes Disputes. december 2 Alberta 12 Inde to the state of of the Estates and FILLING STATES OF THE PARTY OF He in the same Transfer Bud. المراجعة ال المراجعة الم Taking the state of A STATE OF THE PARTY OF THE PAR معمد المعصود كان مستسب المعالم المعالم المدار المستسبب المعالم VIST STREET THE PARTY 

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where is as a part thereof, a lien in favor of the United States shall attach immediately to said marginals and shall be discharged on the completion and on very of the vesse, vessels as many innertials not then incorporated as a part thereof. Said liet is pursuant to the provisions of the Act approved August 22, 1011, paramount.

No payments shall be made except on youthers it, septuplicate, verified by the Super-

visor of Shipbuilding, in such form as shall be directed by the Secretary of the Navy.

(c) All walrants lot payments under the contract shall be made payable to the contractor

or its order.

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Additional security.

(d) When payment is to be made under this contract, 23 a condition precedent thereto, the Secretary of the Navy, in his discretion, may require evidence satisfactory to him, to be furnished by the contractor, showing what, if any, liens or rights in rem of any kind against the vessel/vessels, or the machinery, fittings, or equipment, or the materials on hand for use in the construction thereof, have been or any histographic property. fittings, equipment, or material already incorporated as a part of the verzel vessels, or on hand for use in the construction thereof; but the contractor, for itself and on its own account and for and on account of all persons, firms, associations, and corporations furnishing labor and material for the vessel/vessels and this contract is upon the express condition that no liens or rights in rem of any kind shall lie or attach upon or against the vessel/vessels or the machinery, fittings. or equipment, or the materials therefor, or any part thereof, or of any of them, for or on account of any work done upon or about the vessel/vessels, machinery, fittings, equipment, or materials. or of any materials furnished therefor or in connection therewith, nor for or on account of any other cause, or thing, or of any claims or demands of any kind, except the claims of the Department: Provided, however, That, in case by reason of the laws of any State the contractor shall be mable to comply with such express condition, then the Secretary of the Navy may waive such condition or take such other action as he may deem proper under the circumstances

(c) When all the conditions, covenants, and provisions of this contract shall have been performed and fulfilled by and on the part of the contractor, it shall be cutitled within 10 days after the filing and acceptance of its request therefor to receive the special reserve, or so much thereof as it may be entitled to, on the execution of a release, in such form and containing such terms and conditions as shall be prescribed by the Secretary of the Nawy, of claims against the United States arising under or by virtue of this contract: Provided, however, That the Secretary of the Navy may, in his discretion, make partial payments on account of the special reserve and

of any other balances due in advance of final settlement.

24. Should any surety upon the bond for the performance of this contract or upon the bond for payment of persons supplying labor or material hereunder become unacceptable to the Department, or if any such surety shall fail to furnish reports as to his financial condition from time to time as requested by the Department, the contractor shall furnish promptly such additional security as may be required from time to time to protect the interests of the Department and of persons supplying labor or materials in the prosecution of the work contemplated by this contract.

The following changes were made in these General Provisions before this contract was

signed by the parties thereto:

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